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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,322	10/13/2000	Andrzej Mamona	0100.0000810	8828

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EXAMINER

GROSS, KENNETH A

ART UNIT	PAPER NUMBER
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2122

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DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/687,322

Applicant(s)

MAMONA ET AL.

Examiner

Kenneth A Gross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to Claim 1, the executable program is unclear. How exactly does the executable program relate to the code modules and the bundle? Claim 2 teaches multiple code bundles. Is a code bundle just an executable program? If so, then there exists not just one executable program, but also multiple executable programs. In regard to Claim 3, it is unclear how a jump instruction is included in the code bundle. Figure 6 shows jump instructions included in the display driver, and not in the code bundle itself. This needs to be clarified.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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2. Claim 1, 4, 5, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (U.S. Patent Number 6,496,979).

In regard to Claim 1, Chen teaches: (a) obtaining at least one system configuration parameter (Figure 8, item 162 and Column 8, lines 34-40); (b) dynamically constructing a least one code bundle from a set of code modules based on the system configuration parameter (Column 9, lines 48-50); (c) wherein the set of code modules includes a least one code module for a first system configuration parameter and a second code module for a second system configuration parameter. Chen teaches different modules for different CPU types (Column 8, lines 23-40). Claim 8 corresponds directly with Claim 1, and is rejected for the same reasons as Claim 1.

In regard to Claim 4, it can be seen from figure 6 that the code bundle contains multiple application files (Figure 6, item 102C). Claim 11 corresponds directly with Claim 4, and is rejected for the same reasons as Claim 4.

In regard to Claim 5, the actual system configuration parameter includes a dynamic configuration parameter, such as the CPU type taught by Chen (Column 8, lines 37-40). Claim 12 corresponds directly with Claim 5, and is rejected for the same reasons as Claim 5.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,496,979) in view of Biggs et al. (U.S. Patent Number 5,504,920).

In regard to Claim 2, Chen teaches the method of Claim 1, but does not teach that the executable program is associated with a software driver and including the step of dynamically constructing a code bundle for every driver entry point associated with the software driver. Biggs, however, does teach display driver software associated with a number of Windows primitive commands for controlling the display of a computer. Each primitive command is associated with an entry point of the display driver. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to construct an executable program in memory as taught by Chen, where the executable program is associated with a software driver and creating the executable includes the step of dynamically constructing a code bundle for every driver entry point associated with the software driver as taught by Biggs, since this allows for fast calling of driver parts. Claim 9 corresponds to Claim 2, and is rejected for the same reason as Claim 2.

5. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,496,979).

In regard to Claim 3, Chen teaches the method of Claim 1, but does not teach dynamically constructing the code bundle with a jump or call instruction. However, since the code modules are constructed into a code bundle dynamically, and since the code modules most likely do not exist in contiguous memory spaces a 'call' or 'jump' command would be used to access the different code modules that exist in the bundle. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a method for constructing an

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executable program in memory, as taught by Chen, where a dynamically constructed code bundle contains at least one jump or call instruction, since this allows the bundle to access different code modules that would not exist in contiguous memory spaces.

6. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,496,979) in view of Amberg et al. (U.S. Patent Number 5,963,743).

In regard to Claim 6, Chen teaches the method of Claim 5, and further teaches a library of code modules (Column 17, lines 21-24). Chen does not teach a database containing an index corresponding system configuration parameters with code modules. Amberg, however, does teach a component database (Figure 6) that contains hardware and software component descriptions, including a CPU type variable for processor component records (Column 10, lines 49-53). Each component is associated with a module of code that executes the installation steps for the given component (Figure 5, item 550). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to construct an executable object in memory as taught by Chen, where a library of code modules and a database of system configuration parameters indexed to the modules is used for constructing a code bundle as taught by Amberg, since this allows for better organization and easier updating of code bundles associated with different system parameters. Claim 13 corresponds directly with Claim 6, and is rejected for the same reasons as Claim 6.

7. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,496,979) in view of Reha et al. (U.S. Patent Number 6,282,709).

In regard to Claim 7, Chen teaches the method of Claim 1, but does not teach that the code bundle contains display drivers. Reha, however, does teach the use of display drivers and

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the need to update such drivers (Column 4, lines 3-7). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to construct an executable object in memory as taught by Chen, where the executable is a display driver, as taught by Reha, since updating display drivers ensures more efficient and less error-prone display devices. Claim 14 corresponds directly with Claim 7, and is rejected for the same reasons as Claim 7.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Merkin (U.S. Patent Number 5,715,463)

Carroll et al. (U.S. Patent Number 6,301,707)

Mohammed (U.S. Patent Number 6,418,555)

Beyda (U.S. Patent Number 5,870,610)

Taylor (U.S. Patent Number 5,931,909)

Luu (U.S. Patent Number 5,860,012)

Halpern et al. (U.S. Patent Number 6,282,711)

Owens et al. (U.S. Patent Number 5,555,416)

Staelin (U.S. Patent Number 5,835,777)

Holmes et al. (U.S. Patent Number 5,247,683)

Shaw (U.S. Patent Number 6,381,741)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542.

The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (703) 308-4789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

KAG
April 16, 2003


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100